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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 PAUL LEEMON CLARK,) CASE NO. C08-0350-RSL
09 Plaintiff,)
10 v.)
11 KING COUNTY SUPERIOR COURT,) REPORT AND RECOMMENDATION
12 Defendant.)
13 _____)

14 Plaintiff is currently incarcerated at the Regional Justice Center in Kent, Washington. He
15 has submitted a civil rights complaint pursuant to 42 U.S.C. § 1983, along with an application for
16 leave to proceed *in forma pauperis* (“IFP application”). In his proposed complaint, plaintiff
17 asserts that despite making demands for a speedy trial, he has been waiting eight months to be
18 brought to trial in King County Superior Court on unspecified criminal charges. (Complaint at
19 3.) Plaintiff alleges that his right to a speedy trial under the federal and state constitutions has been
20 violated and he contends that it is the responsibility of the court to ensure that a defendant receives
21 a speedy trial. The King County Superior Court is the only defendant named in this

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01 action.¹ Plaintiff seeks dismissal of all charges against him and money damages.

02 The undersigned United States Magistrate Judge has reviewed the complaint pursuant to
03 28 U.S.C. § 1915A, and concludes that the complaint falls short of the allegations necessary to
04 state a claim for relief. A local government unit or municipality can be sued as a “person” under
05 § 1983. *Monell v. Department of Social Servs., of City of New York*, 436 U.S. 658, 691 (1978).
06 However, a municipality cannot be held liable under § 1983 solely because it employs a tortfeasor.
07 *Id.* A plaintiff seeking to impose liability on a municipality under § 1983 must identify a municipal
08 “policy” or “custom” that caused his or her injury. *Bryan County Commissioners v. Brown*, 520
09 U.S. 397, 403 (1997) (citing *Monell* 436 U.S. at 694).

10 The manner in which plaintiff presents his claims suggests that he is seeking to have the
11 King County Superior Court held liable for the actions of others. Plaintiff has not identified any
12 municipal policy or custom which he believes is responsible for the harm he alleges in his
13 complaint. And, in fact, plaintiff specifically states in his complaint that he believes the delay he
14 complains of has been caused by the prosecutor “solely to gain a tactical advantage over me as a
15 defendant.” (Complaint at 3.) The King County Superior Court may not be held liable for the
16 actions of the prosecutor. To the extent plaintiff’s claims may implicate the actions of individual
17 judges on the King County Superior Court who have permitted the prosecution to delay
18 proceedings, such claims are barred by the doctrine of judicial immunity. *See Briscoe v. LaHue*,

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20 ¹ The Court notes that plaintiff has filed three other actions in which he raises a speedy trial
21 claim but against different defendants: *Clark v. State of Washington*, Case No. C08-006-JCC
22 (dismissed on February 5, 2008); *Clark v. Abbott*, Case No. C08-259-RSM (Report and
Recommendation pending); *Clark v. Schmidt*, Case No. C08-449-MJP-MAT (Report and
Recommendation pending).

01 460 U.S. 325,334-36 (1983).

02 In light of these deficiencies, plaintiff's complaint fails to state a claim upon which relief
03 can be granted. In addition, it appears that it would be futile to grant plaintiff leave to amend the
04 complaint. Accordingly, the complaint should be dismissed and the IFP application denied as
05 moot. A proposed Order reflecting this recommendation is attached.

06 DATED this 14th day of April, 2008.

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08 Mary Alice Theiler
09 United States Magistrate Judge
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